2000 WL 1146619
Only the Westlaw citation is currently available.
United States District Court, E.D. Pennsylvania.

NAACP PHILADELPHIA BRANCH, et al.,
v.
Tom RIDGE, Governor, Commonwealth of Pennsylvania, et al.

No. CIV. A. 00–2855.
|
Aug. 14, 2000.

MEMORANDUM AND ORDER

BECHTLE

***1** Presently before the court is plaintiffs the National Association for the Advancement of Colored People, Philadelphia Branch, *et al.,* ("Plaintiffs") motion for preliminary injunction, which the parties have agreed to consolidate with the merits determination for a permanent injunction, and defendants Tom Ridge, Governor, Commonwealth of Pennsylvania, *et al.,* ("Defendants") response thereto. For the reasons set forth below, the court will abstain and will not proceed to the merits determination of Plaintiffs' claim.

I. *BACKGROUND*

Plaintiffs filed this civil rights suit contending that the Pennsylvania Voter Registration Act ("PVRA" or the "Act"), 25 Pa .Cons.Stat.Ann. §§ 961.101—961.5109, offends the Equal Protection Clause of the Fourteenth Amendment.[1] Plaintiffs assert that, without a rational basis, the PVRA prohibits some ex-felons from voting during the five year period following their release from prison, while permitting other ex-felons to vote during the same period. Plaintiffs filed their Complaint and a motion for preliminary injunction on June 7, 2000.

The parties agreed to consolidate Plaintiffs' motion for preliminary injunction with the merits determination for a permanent injunction. Thus, the court ordered the trial to be advanced and consolidated in accordance with Federal Rule of Civil Procedure 65(a)(2). A hearing was held on August 8, 2000.

II. *DISCUSSION*

Plaintiffs contend that an equal protection violation stems from a provision in the PVRA that bars all felons from registering to vote for five years following their release from prison. 25 Pa.Cons .Stat.Ann. § 961.501. Plaintiffs assert that, as a result of this provision, ex-felons who were registered to vote before their incarceration may vote following their release from prison, while ex-felons who were not registered before their incarceration may not .[2] Thus, Plaintiffs argue that the PVRA irrationally distinguishes between groups of ex-felons. Defendants contend that the PVRA does not unconstitutionally distinguish between groups of ex-felons because no ex-felons are entitled to be registered or to vote during the five year period following their release from prison. The court will discuss Plaintiffs' standing in this case, the statute at issue and the doctrine of abstention.

A. *Standing*

The plaintiffs are: the National Association for the Advancement of Colored People ("NAACP"), Philadelphia Branch, an unincorporated nonprofit affiliate of the national NAACP; Ex–Offenders, Inc., Against Drugs, Guns and Violence; the Pennsylvania Prison Society; Community Assistance for Prisoners; Malik Aziz; Alex Moody, Sr.; and Representative James Roebuck, a member of the Pennsylvania House of Representatives. The defendants are: Thomas J. Ridge, Governor of the Commonwealth of Pennsylvania; Kim H. Pizzigrilli, Secretary of the Commonwealth; and the three County Commissioners for Philadelphia County, Margaret Tartaglione, Alexander Z. Talmadge, Jr. and

Joseph Duda.

***2** It is clear that one individual plaintiff, Malik Aziz, has standing to bring this action. Aziz alleges that he is not registered to vote and that he is ineligible to do so because he was convicted of a felony and released from prison within the last five years. (Pls.' Ex. 1 ¶ 3.) The basic prerequisites for standing—injury, causation and redressability—are met. *See Lujan v. Defenders of Wildlife,* 504 U.S. 555, 560–61 (1992) (listing elements for standing).

The court also finds that the NAACP, which asserts associational standing, has standing in this case. An organization has standing to raise a claim on behalf of its members if: (1) "its members would otherwise have standing to sue in their own right"; (2) "the interests it seeks to protect are germane to the organization's purpose"; and (3) "neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *United Food & Commercial Workers Union Local 751 v. Brown Group, Inc.,* 517 U.S. 544, 553 (1996); *see also Hospital Council v. City of Pittsburgh,* 949 F.2d 83, 86 (3d Cir.1991) (stating elements of standing).

Aziz is a member of the NAACP which has 13,000 members. Some of these members are ex-felons who, like Aziz, may not register to vote as a result of the five year ban. (Pls.' Ex. 1 ¶¶ 3 & 5.) Thus, the first prong is met in that the NAACP's members have standing to sue in their own right. The second prong is met as the interests the NAACP seeks to protect are germane to its purpose. The NAACP has a long history of protecting African Americans' voting rights. *Id.* Pennsylvania's five year ban impacts African Americans, who constitute a substantial percentage of inmates in Pennsylvania prisons and thus also a substantial percentage of Pennsylvania's released prisoner population. *Id.* Finally, neither the claim asserted nor the relief requested requires the participation of individual members in this suit. Thus, the court finds that the NAACP has associational standing.

It is less clear, however, that the other named plaintiffs have standing. At oral argument, Plaintiffs conceded that Alex Moody, Sr. does not have standing. Defendants do not challenge standing of the other named plaintiffs, Ex–Offenders, Inc., Against Drugs, Guns and Violence; the Pennsylvania Prison Society; Community Assistance for Prisoners or Representative James Roebuck. The court will assume for purposes of this opinion that the other plaintiffs also have standing.

B. *Section 961.501 of the PVRA*

At issue in the instant case is section 961.501 of the PVRA, which sets out the qualifications individuals must satisfy in order to be eligible to register to vote or "entitled to be registered." 25 Pa.Cons.Stat.Ann. § 961.501(a). Section 961.501(a) provides that a "qualified elector" must: (1) be at least eighteen years of age on the day of the next election; (2) be a United States citizen for at least one month prior to the next election; (3) have resided in Pennsylvania and in the election district where he or she seeks to vote for at least thirty days prior to the next election; and (4) "not [have] been confined in a penal institution for a conviction of a felony within the last five years." *Id.* § 961.501(a).

***3** Plaintiffs contend that this provision of the PVRA results in an equal protection violation because it prohibits ex-felons from registering to vote during the five year period following their incarceration, but does not explicitly prevent them from voting during that same period. As Plaintiffs construe the statute, ex-felons who registered to vote before their incarceration may vote immediately following their release from prison, while those who did not register to vote before they were incarcerated may not. Thus, Plaintiffs argue that the PVRA irrationally distinguishes between groups of ex-felons. Plaintiffs seek to permanently enjoin Defendants from enforcing the provisions of the PVRA that bar all convicted felons from being entitled to be registered to vote if they were released from prison within the last five years and the provisions that require that the forms used to register a person contain the statement that the person "has not been confined in a penal institution for a conviction of a felony within the last five years." *Id.* §§ 961.501(a), 961.525(b)(4) & 961.527(a)(4)(iii).[3]

C. *Abstention*

Defendants contend that the PVRA does not distinguish between groups of ex-felons because under the statute, no ex-felons are entitled to vote during the five year period following their release from prison. Defendants acknowledge that the PVRA may not be a model of clarity and assert that if the court finds the statute

ambiguous, it should abstain pursuant to *Railroad Commission of Texas v. Pullman Company,* 312 U.S. 496 (1941). Defendants argue that the court should not undertake to analyze the PVRA under the United States Constitution because the Act has not yet been interpreted by the Pennsylvania courts. Defendants assert that an interpretation of the PVRA by the state courts, the courts empowered to render binding interpretations of state statutes, could eliminate the federal constitutional concerns raised here. Plaintiffs contend that abstention is not appropriate because the language of the statute is clear and because of the impact that delay might have on the litigants, who seek to vote in the November 2000 general election.

As a general rule, "federal courts lack the authority to abstain from the exercise of jurisdiction that has been conferred." *New Orleans Pub. Serv., Inc. v. Council of New Orleans,* 491 U.S. 350, 358 (1989). The obligation of a federal court to adjudicate claims that fall within its jurisdiction has been deemed by the Supreme Court to be "virtually unflagging." *Id.* at 359 (citations omitted). There are, however, a small number of "exceptional circumstances" that justify deviation from this rule. *Moses H. Cone Memorial Hosp. v. Mercury Constr. Corp.,* 460 U.S. 1, 14 (1983).

Abstention is an "extraordinary and narrow exception to the duty of a District Court to adjudicate a controversy properly before it" that should be invoked "only in the exceptional circumstances." *Colorado River Water Conservation Dist. v. United States,* 424 U .S. 800, 813 (1976) (citation omitted). One type of abstention, commonly referred to as *Pullman* abstention, applies "in cases presenting a federal constitutional issue which might be mooted or presented in a different posture by a state court determination of pertinent state law." *Id.* at 814 (citation omitted). Abstention under *Pullman* "is appropriate where an unconstrued state statute is susceptible of a construction by the state judiciary 'which might avoid in whole or in part the necessity for federal constitutional adjudication, or at least materially change the nature of the problem.' " *Bellotti v. Baird,* 428 U.S. 132, 147 (1976) (citation omitted); *Chez Sez III Corp. v. Township of Union,* 945 F.2d 628, 631 (3d Cir.1991) (discussing *Pullman* abstention). The purpose of abstaining is twofold: to avoid a premature constitutional adjudication which could ultimately be displaced by a state court adjudication of state law; and to avoid "needless friction with state policies." *Pullman,* 312 U.S. at 500; *Chez Sez,* 945 F.2d at 631 (citing *Pullman,* 312 U.S. at 500).

***4** The *Pullman* concern is that when federal courts interpret state statutes in a way that raises federal constitutional questions, without the benefit of state-court consideration, "a constitutional determination is predicated on a reading of the statute that is not binding on state courts and may be discredited at any time—thus essentially rendering the federal-court decision advisory and the litigation underlying it meaningless." *Pennzoil Co. v. Texaco, Inc.,* 481 U.S. 1, 11 (1987) (citations omitted). Because the federal court is unable to set forth a definitive construction of a state statute, the federal court's construction is "only tentative, at best a forecast, subject to override by the courts of the state." *Robinson v. New Jersey,* 806 F.2d 442, 448 (3d Cir.1986) (citing *Pullman,* 312 U.S. at 499–500). This concern has special significance in this case, where the federal constitutional question might be eliminated by securing a Pennsylvania court's determination of an unresolved question of its local law.

The *Pullman* doctrine thus requires the presence of three circumstances: (1) uncertain issues of state law underlying the federal constitutional claim; (2) state law issues subject to state court interpretation that could obviate the need to adjudicate or substantially narrow the scope of the federal constitutional claim; and (3) the possibility that an erroneous construction of state law by the federal court would disrupt important state policies. *Chez Sez,* 945 F.2d at 631. If all three circumstances are present, the District Court is then required to make a "discretionary determination" as to whether abstention is appropriate under the circumstances, based on certain "equitable considerations." *Id.* The court is to weigh "such factors as the availability of an adequate state remedy, the length of time the litigation has been pending, and the impact of delay on the litigants." *Artway v. Attorney General of New Jersey,* 81 F.3d 1235, 1270 (3d Cir.1996). The court will address each factor in turn.

First, the state law underlying the federal constitutional issue must be uncertain. *Chez Sez,* 945 F.2d at 631. The court's initial inquiry focuses on whether the language of the Act is "clear and unmistakable." *Id.* (citations omitted). Under the PVRA, which Pennsylvania adopted in 1995, an individual who possesses all of the qualifications for voting prescribed by Pennsylvania's Constitution and laws by the next election is referred to as a "qualified elector." 25 Pa.Cons.Stat.Ann. § 961.102. Section 961.501 sets out the qualifications individuals must satisfy in order to be eligible to register to vote or "entitled to be registered." *Id.* § 961.501(a). Section

961.501(b) provides that "[n]o individual shall be permitted to vote at any election unless the individual is registered under this subsection," except as otherwise provided by law. *Id.* § 961.501(b). Under § 961.501(a), a "qualified elector" must: (1) be at least eighteen years of age on the day of the next election; (2) be a United States citizen for at least one month prior to the next election; (3) have resided in Pennsylvania and in the election district where he or she seeks to vote for at least thirty days prior to the next election; and (4) "not [have] been confined in a penal institution for a conviction of a felony within the last five years." *Id.* § 961.501(a).

***5** The PVRA prohibits all ex-felons from registering to vote during the five year period following their release from prison. Plaintiffs take the position that the PVRA prohibits only those ex-felons from voting who were not registered before their incarceration or who changed residence after their release from prison. As Plaintiffs construe the statute, ex-felons who registered to vote before their incarceration may vote upon their release from prison. Plaintiffs find support for their interpretation of the statute from the fact that 25 Pa.Cons.Stat.Ann. § 2811, "Qualifications of electors," sets forth that a qualified elector shall be: eighteen years of age, a citizen of the United States for at least one month, a resident of Pennsylvania for ninety days and a resident in the election district where he or she seeks to vote for at least thirty days. 25 Pa.Cons.Stat.Ann. § 2811. However, § 2811 also provides that such an individual "shall be entitled to vote at all elections, provided he or she has complied with the provisions of the acts requiring and regulating the registration of electors." *Id.*

Defendants assert that the PVRA makes no distinction between ex-felons who were registered at the time of their conviction and those who were not. Defendants contend that under § 961.501, neither group is "entitled to be registered" during the five years following their release from prison. The PVRA thus prohibits all ex-felons from voting during the five year period following their incarceration. Defendants contend that Plaintiffs' reading of the PVRA is based on an erroneous interpretation of the phrase "entitled to be registered." 25 Pa.Cons.Stat.Ann. § 961.501(a). Defendants assert that the phrase "entitled to be registered" refers to a status and not an act. As an example, a person who moves to a different election district may be registered to vote and may possess evidence of registration, but is neither entitled to be registered nor to vote in his or her former locality. Thus, Defendants contend that although an ex-felon who registered to vote before his or her incarceration might possess evidence of registration, he or she is neither "entitled to be registered" nor to vote following his or her release from prison.

In support of their position, Defendants point out that on March 20, 1997, the Department of State issued the "PVRA Implementation Manual for County Officials." (Joint Stip. of Facts ¶ 17.) To date, there have been no revisions of the manual. *Id.* The Implementation Manual states that:

> the PVRA specifies the qualifications to register to vote. These qualifications are essentially the same as the qualifications for voting as contained in Section 701 of the Pennsylvania Election Code (25 P.S. § 2811). However, the PVRA provides that individuals who have been convicted of a felony within the past five years are ineligible to vote.

(Pls.' Ex. 3 at 2 (PVRA Implementation Manual)).

The court finds that both Plaintiffs' and Defendants' interpretations constitute plausible constructions of the statute. Thus, the language of the PVRA is ambiguous. If an ambiguous statute has been authoritatively construed by the state courts, abstention would not be appropriate. *Chez Sez,* 945 F.2d at 632 (citations omitted). The PVRA has never been interpreted by the Pennsylvania courts.[4] The court concludes that the PVRA presents an unsettled issue of state law and that the first of the three *Pullman* factors has been met.

***6** The second factor to be considered is whether the PVRA is amenable to an interpretation by the state court that could obviate the need to adjudicate or substantially narrow the scope of the federal constitutional claim. *Chez Sez,* 945 F.2d at 631. Here, the court considers whether the statute is "obviously susceptible of a limiting construction." *Id.* at 632 (citing *Hawaii Hous. Auth. v. Midkiff,* 467 U.S. 229, 237 (1984)). Whether the state law issues are amenable to a state court interpretation is evaluated under a "fairly high threshold requiring a 'substantial possibility' that a state interpretation would obviate the need for a federal constitutional decision." *Artway,* 81 F.3d at 1271 n. 34 (citations omitted).

Plaintiffs claim that the PVRA prohibits only some ex-felons from voting for a five year period following their incarceration, irrationally distinguishing between ex-felons who were registered at the time they were convicted of a felony and those who were not. Defendants urge that the court, when ascertaining the intention of the legislature in the enactment of the PVRA, presume "[t]hat the General Assembly does not intend a result that is absurd, impossible of execution or unreasonable." 1 Pa.Cons.Stat.Ann. § 1922(1). Further, Defendants also point out that "[t]he Commonwealth's legislation enjoys a presumption of constitutionality, 1 Pa.Cons.Stat.Ann. § 1922(3), and ... doubts are to be resolved in favor of such a finding." *United States v. Geller,* 560 F.Supp. 1309, 1315 (E.D.Pa.1983) (citations omitted). Thus, courts will not invalidate a statute "simply because it *may* be applied unconstitutionally, but only if it *cannot* be applied consistently with the Constitution." *Robinson,* 806 F.2d at 446.

As the Third Circuit stated in *Georgevich,* "[a]bstention is invoked to allow a state judiciary to construe statutes or statutory schemes which appear constitutionally problematic on their face, but which may be subject to a saving construction." *Georgevich v. Strauss,* 772 F.2d 1078, 1091 (3d Cir.1985).[5] It is clear that the "federal courts do not decide questions of constitutionality on the basis of preliminary guesses regarding local law," and that statutes "should be exposed to state construction or limiting interpretation before the federal courts are asked to decide upon their constitutionality." *England v. Louisiana State Bd. of Med Exam'rs,* 375 U.S. 411, 416 n. 7 (1964). As discussed above, the court finds that a state court may conclude that the PVRA precludes all ex-felons from voting during the five year period following their incarceration.[6]

In evaluating the third *Pullman* factor, the court must consider the possibility that an erroneous construction of state law by the federal court would disrupt important state policies. *Chez Sez,* 945 F.2d at 631. Defendants argue that an erroneous decision would significantly disrupt the registration and election processes of the Commonwealth. Defendants also assert that an erroneous decision could damage the integrity of the electoral process. Any decision by this court would of necessity affect a sensitive area of state law. Additionally, no central registry exists and registries are maintained by each of the sixty-seven counties of the Commonwealth. (Joint Stip. of Facts ¶ 27.) Thus, an erroneous construction of state law by the federal court could eventually necessitate a massive effort within all sixty-seven counties to remove ineligible voters from the rolls.

***7** Plaintiffs argue, as did the plaintiffs in *Richardson,* that it is "essential to the process of rehabilitating the ex-felon that he be returned to his role in society as a fully participating citizen when he has completed the serving of his term." *Richardson,* 418 U.S. at 55; *See* Pls.' Pretrial Mem. Proposed Findings of Fact ¶ 1. However, the *Richardson* Court responded that "[w]e would by no means discount these arguments if addressed to the legislative forum which may properly weigh and balance them" but that "it is not for us to choose one set of values over the other." *Richardson,* 418 U.S. 24, 55. The court finds that voting regulations implicate important state policies and that an erroneous construction of the PVRA would be disruptive.

Having found that all that all three of the "special circumstances" necessary to invoke the *Pullman* doctrine are present in this case, the court must next make a "discretionary determination" as to whether abstention is appropriate under the circumstances. *Chez Sez,* 945 F.2d at 631. In doing so, the court is to weigh certain "equitable considerations" including the availability of an adequate state remedy, the length of time the litigation has been pending, and the impact of delay on the litigants. *Artway,* 81 F.3d at 1270.

Plaintiffs argue that because of the imminency of the November 2000 election, this court should not abstain. In support of their argument, Plaintiffs cite *Harman v. Forssenius,* 380 U.S. 528 (1965) and *Stretton v. Disciplinary Board of the Supreme Court of Pennsylvania,* 944 F.2d 137 (3d Cir.1991). The court finds both cases inapposite. In *Harman,* the Supreme Court rejected the argument that the district court abused its discretion when the district court declined to abstain from interpreting a statute that was clear, unambiguous and "not fairly subject to an interpretation" that would render unnecessary or substantially modify the federal constitutional question. *Harman,* 380 U.S. at 534–36. The court does not find that the PVRA is clear and unambiguous. To the contrary, Defendants' interpretation that the statute prohibits all ex-felons from voting for the five year period following their incarceration is plausible. In *Stretton,* the Third Circuit declined to abstain where an election was weeks away and the challenged statute prohibited a judicial candidate from expressing his views on disputed legal or political issues, impeding his ability to campaign for the position he sought.[7] *Stretton,* 944 F.2d

at 141–44. In the instant case, no First Amendment rights are similarly infringed. Further, the election is almost three months away.

The court also observes that although the PVRA has been in effect for more than five years, litigation in this case has been pending for only two months. Plaintiffs nonetheless contend that abstention is not appropriate because abstention would make it "highly unlikely" that their constitutional challenge would be resolved before the November 2000 general election. (Pls.' Pretrial Mem. at 28.) The court recognizes that it must consider the impact that delay might have on the litigants, however, it does not agree with Plaintiffs' contention that "the time constraints caused by the upcoming election means that the option of pursuing their claims in state court does not offer Plaintiffs an adequate remedy." *Id.*

***8** It appears to the court that several avenues exist by which Plaintiffs may pursue a determination by the state courts. Plaintiffs may file an action for declaratory judgment, a petition for extraordinary relief and/or mandamus. There is ample time before the November 2000 election, and there is no reason to presume that a prompt resolution of the issue cannot be obtained from the state courts.

Although the court will abstain from a decision at the present time, it nonetheless retains jurisdiction over the action. *American Trial Lawyers Assoc. v. New Jersey Supreme Court,* 409 U.S. 467, 469 (1973) (stating that "proper course is for the District Court to retain jurisdiction pending the proceedings in the state courts.") The *Pullman* doctrine does not lead to outright dismissal of a case; rather, the federal court stays its hand until the state courts have conclusively decided all relevant state law issues.[8] When that has happened, the federal court, armed with the state courts' interpretation, resumes the task of adjudicating the federal issues in the case. *England,* 375 U.S. at 421; *NAACP v. Button,* 371 U.S. 415, 427 (1963) (stating that "a party has the right to return to the District Court, after obtaining the authoritative state court construction for which the court abstained, for a final determination of his claim"). Plaintiffs have the right to return to the federal court should a federal constitutional issue remain after resolution of the state-law issue. *Robinson,* 806 F.2d at 449 (citing *England,* 375 U.S. at 415–17.

III. *CONCLUSION*

For the foregoing reasons, the court will abstain and will not proceed to the merits determination of Plaintiffs' claim.

An appropriate Order follows.

ORDER

AND NOW, TO WIT this __ day of August, 2000, upon consideration of plaintiffs NAACP Philadelphia Branch, *et al.,* ("Plaintiffs") motion for preliminary injunction, which was consolidated with the merits determination for a permanent injunction, defendants Tom Ridge, Governor, Commonwealth of Pennsylvania, *et al.,* ("Defendants") response thereto, and a full hearing on the merits having been held, IT IS ORDERED that:

1. Plaintiff's motion for permanent injunction is DENIED;

2. the court ABSTAINS from deciding the merits of Plaintiffs' claims; and

2. all further proceedings in the above captioned case are STAYED until further order of the court.

All Citations

Not Reported in F.Supp.2d, 2000 WL 1146619

Footnotes

1 This court has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question).

2 Likewise, Plaintiffs assert that an ex-felon who had to re-register because of a change in his or her residence

following release from prison would be prohibited from registering and could not vote, while an ex-felon who did not move to a new election district would not have to re-register and could vote.

[3] Injunctive relief is an extraordinary remedy that should be granted only in "limited circumstances." *AT & T v. Winback and Conserve Prog. Inc.,* 42 F.3d 1421, 1427 (3d Cir.1994) (citations omitted). The Third Circuit has stated that there are three prerequisites for permanent injunctive relief: first, the plaintiff must demonstrate that the court's exercise of equity jurisdiction is proper because there is no adequate legal remedy, the threatened injury is real, and no equitable defenses exist; second, the plaintiff must actually succeed on the merits of his or her claims; third, the plaintiff must show that the balance of equities tips in favor of injunctive relief. *Roe v. Operation Rescue,* 919 F.2d 857, 867 n. 8 (3d Cir.1990) (citations omitted). Thus, "[i]n deciding whether a permanent injunction should be issued, the court must determine if the plaintiff has actually succeeded on the merits (i.e., met its burden of proof). If so, the court must then consider the appropriate remedy." *ACLU of N.J. v. Black Horse Pike Reg. Bd. of Educ.,* 84 F.3d 1471, 1477 n. 3 (3d Cir.1996) (citing *CIBA–GEIGY Corp. v. Bolar Pharm. Co., Inc.,* 747 F.2d 844, 850 (3d Cir.1984)).

[4] However, presently pending before the Commonwealth Court is *Mixon v. Pennsylvania,* No. 384 M.D.1999 (Pa.Commw.Ct. filed June 30, 1999). The NAACP is an amicus in *Mixon* and fully participated in the legal argument held in March 2000. Plaintiffs in *Mixon* challenged the same provisions of the PVRA but on different theories. In *Mixon,* the plaintiffs contend that the PVRA unfairly disadvantages minorities and that the General Assembly exceeded its authority under Pennsylvania's Constitution by restricting felons from voting upon their release from prison.

[5] In *Georgevich,* the Third Circuit added that "[t]he need for state court interpretation results not only from unclear language on the face of a single statute, but also from the juxtaposition of clear, but contradictory state provisions." *Georgevich,* 772 F.2d at 1091. Thus, ambiguity may arise when the relevant state laws are read together, rather than independently. *Id.*

[6] Defendants assert that fifteen states have permanently disenfranchised felons, and twenty-one others do not permit a felon to vote until he or she has been finally discharged from all supervision, including probation and parole. (Defs.' Mem. of Law in Opp'n to Pls.' Mot. for Prelim. Inj. at 7.) In *Richardson v. Ramirez,* the Supreme Court stated that the "exclusion of convicted felons from the franchise violates no constitutional provision." *Richardson v. Ramirez,* 418 U.S. 24, 53 (1974) (upholding statute disenfranchising convicted felons who completed their sentences and paroles). The Court added that "[r]esidence requirements, age, previous criminal record are obvious examples indicating factors which a state may take into consideration in determining the qualifications of voters." *Id.* (internal citations and quotations omitted).

[7] In *Stretton,* the Third Circuit predicted that the state supreme court would construe the statute at issue to comply with constitutional standards and stated that "[w]hen a statute or regulation is challenged, it should be interpreted to avoid constitutional difficulties." *Stretton,* 944 F.2d at 144.

[8] In *Growe v. Emison,* the Court stated that "we have referred to the *Pullman* doctrine as a form of 'abstention'.... To bring out more clearly, however, the distinction between those circumstances that require dismissal of a suit and those that require postponing consideration of its merits, it would be preferable to speak of *Pullman* 'deferral." " *Growe v. Emison,* 507 U.S. 25, 32 n. 1 (1993).